



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105**

JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION

PART I - BACKGROUND

Date: March 28, 2011

Program Officer: Superfund Division, Region 9

Project Officer: Jinky Callado
RAC Project Officer
415-972-3229
SFD-2
Callado.Jinky@epa.gov

Project Identification: Remedial Action Contract 2 (RAC2), Contract Number
EP-S9-08-04

Description of supplies or services required:

This Remedial Action Contract 2 Full Service provides professional architect/ engineer, technical, and management services to the Environmental Protection Agency (EPA) to support remedial response, enforcement oversight and non-time critical removal activities under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA); and the Robert T. Stafford Disaster Relief and Emergency Assistance Act pursuant to the Federal Response Plan (FRP) and other laws to help address and/or mitigate endangerment to the public health, welfare or environment, and to support States and communities in preparing for responses to releases of hazardous substances, as well as counter-terrorism.

Period of Performance (Base year and options):

Base year: 9/24/08-9/23/11
Award Terms: (#1) 9/24/11-9/23/13
(#2) 9/24/13-9/23/16
(#3) 9/24/16-9/23/18

Estimated Contract Amount: The Current Contract Ceiling is \$110 million

This JOFOC request is for an additional \$6.25 million for a total of \$116.25 million in total contract capacity

Proposed Contractor: CH2M Hill
155 Grand Avenue, Suite 1000
Oakland, CA 94612

PART II - JUSTIFICATION

Region 9 Superfund program is requesting a justification for other than full and open competition (JOFOC) for our RAC2 contractor, CH2MHill, in the amount of \$6.25M. We currently have approximately \$4.4M remaining in existing capacity and have the need for \$6.25M (rounded up to the nearest hundred thousand). Attached for your review is a summary of the requests as well as the individual justifications for each of the 20 task orders.

Specifically, Region 9 cites FAR 6.302-1 - Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements as the authority under which this request is being submitted. Included below is the rationale and information supporting the authority cited.

PROGRAM BACKGROUND

In 2008, after 10 years of the RAC1 contract with only one contractor, CH2MHill, Region 9 awarded a new RAC2 contract to two contractors, CH2MHill (a large business) and ITSI (a small business) each receiving \$110M of capacity for up to 10 years. Workload was distributed based on criteria that was established by the Superfund Branch Chiefs. In February, 2009, the American Recovery and Reinvestment Act (ARRA) bill was enacted and the Office of Superfund Remediation and Technology and Innovation (OSRTI) asked each region for a list of sites that were "shovel-ready" and could accept and obligate an influx of ARRA funding in an expedited fashion. Region 9 had 3 such sites, Iron Mountain Mine (IMM), Sulphur Bank Mine and Frontier Fertilizer. Region 9 received \$24.5M in ARRA funding for these 3 Superfund remedial sites with \$21M going to IMM, \$1M going to SBMM and \$2.5M going to Frontier Fertilizer. In order to meet the stringent "shovel-ready" criteria that ARRA mandated, IMM and Frontier Fertilizer had no other option than to use the existing contractor on the site, CH2MHill. It should be noted, however, that although CH2MHill, a large business, received \$21M worth of work for the IMM site, \$17M of it was subcontracted to small businesses. So although Region 9 does not get the small business credit for this subcontracting, the reality of how the work was accomplished in the field tells another story. It was actually 9 different small businesses that performed the bulk of the field work and realized the benefit and profits associated with the ARRA funding.

REQUEST

Region 9 has used approximately \$106M of the \$110M CH2MHill capacity and approximately \$40M out of \$110M ITSI capacity. The remaining \$70M in unused ITSI capacity will be used over the course of the next 18-24 months which is the timeframe expected to award a new RAC3 contract. Region 9 is requesting this JOFOC for \$6.25M in capacity for CH2MHill for either transition of current work from CH2MHill to ITSI or for completion of a final stage of a phase of work. Region 9 believes that CH2MHill is the one capable source to handle the transition of work due to the fact that they have been the only contractor on the site (and the only option available under the

RAC1 contract) for many years. Without adequate transition, years of site data would be rendered useless and hundreds of thousands of dollars would be wasted in trying to recapture site historical information and data. For sites that are in their final stages of completion of a phase of work, CH2MHill is also the one capable source to adequately and cost effectively bring the site to completion. Additionally, there will be unnecessary delays to our fundamental mission of protecting human health and the environment. For example, at the Anaconda Yerington site, the local community is currently unable to drink their well water due to the levels of contaminants and are being served bottled water as an interim measure while waiting for the conclusion of our site investigation. For the Lava Cap site, surface water is currently being impacted by mine adit discharge which in turn is causing harm to fish and other invertebrates. Without this JOFOC, this harm to the environment would continue until a new contractor could be brought up to speed.

Lastly, it's important to note that out of the 20 sites that are requesting additional capacity under this JOFOC, there are 12 crucial program commitments that have been made with OSRTI for Records of Decision (RODs), remedial investigation (RI) completions, remedial design (RD) completions, RD starts and remedial action (RA) starts coming due in FY2011 or FY2012. If these commitments are not met, Region 9 will be faced with a substantial reduction in pipeline funding as a penalty for missing our program commitments.

In summary, Region 9 respectfully requests that you approve this application for a JOFOC in the amount of \$6.25M while we wait for our new RAC3 contracts to be awarded.

PROCUREMENT STRATEGY FOR RAC3 CONTRACT

PART III - PROGRAM OFFICE DIVISION DIRECTOR'S CERTIFICATION

The undersigned Region 9 Superfund Program Office Division Director certifies that all supporting data which forms the basis for this JOFOC request is complete and accurate.


Jane Diamond
Region 9 Superfund Division Director

3/29/11
Date

Attachments:

1. Task Order Summary Sheet
2. Individual Task Order JOFOC Information Sheets (20)

PART IV - CO'S DETERMINATION

Information regarding elements set forth in FAR 6.303-2(a)(6), (7), (8) and (10):

Since this JOFOC request is for additional capacity on an existing contract vehicle rather than a new procurement, offers were not solicited from any additional sources for these services. The base IDIQ contract was awarded competitively in FY 2008. Based on the authority cited and the information supplied by the program office, no other source would be capable of performing the required tasks. Because of the specialized nature of the tasks included and substantiated by the program office in this JOFOC, additional market research was not conducted. A notice of intent was not published due to the exemption provided in FAR 5.202(11) since the contract was originally synopsisized in accordance with 5.207 and this request is only for increased capacity without new scope being added. A public notice for this contract action will be posted on the GPE in accordance with FAR 5.2 should this JOFOC be approved. After the public notice, any party that expresses an interest in writing regarding this contract action will be documented in the contract file for future reference.

Each of the attachments included with this request specifies the Region's best estimate of the additional costs associated with the cited task orders. For each of these changes, the contractor will be expected to provide a work plan or a work plan amendment detailing the exact costs of the necessary changes. Those work plan documents will be reviewed by the program office as well as the contracting office using the standard cost/price analysis methods. All of the amounts approved under the contract will be deemed fair and reasonable at the individual task order action level.

Certification

The undersigned Region 9 Contracting Officer certifies that justification for this JOFOC request is complete and accurate to the best of his knowledge and belief.


Alexander Kramer
Contracting Officer

3/29/11
Date

PART V - APPROVAL

<u>Title</u>	<u>Name</u>	<u>Action</u>	<u>Signature</u>	<u>Date</u>
Regional Contracting Officer	Paul Casagrande	Review	<i>Paul Casagrande</i>	3/29/11
OAM Service Center Manager	Jeanne Poovey	Review	<i>Jeanne Poovey</i>	April 4, 2011
Office of General Counsel	Jonathan Baker	Review	<i>J. Baker</i>	4/7/11
EPA Competition Advocate	Susan Moroni	Approval	<i>Susan Moroni</i>	4/8/11